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**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/159750

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 06, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code §HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (DHCAA), now known as the Office of the Inspector General (OIG) in regard to Medical Assistance (MA), a telephonic hearing was held on September 04, 2014.

The issue for determination is whether the DHCAA/OIG correctly denied a prior authorization (PA) request for a MRI scan of petitioner's lumbar spine and pelvis.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By written submittal of: Robert Derendinger, RN, BSN  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner is a resident of Waukesha County who is certified for MA.
2. On July 30, 2014 the petitioner's medical provider ( [REDACTED] ) requested PA approval for an MRI scan of petitioner's lumbar spine and pelvis.
3. On July 30, 2014, the DHCAA/OIG denied the petitioner's PA request.
4. The basis for the denial was that the PA request did not document that petitioner had completed a trial of at least six weeks of physician-directed care and clinical re-evaluation prior to the MRI prior authorization request, and because the PA failed to document any signs or symptoms such as significant motor weakness, recent malignancy or infection, cauda equine syndrome, or planned surgery, for which conservative treatment is not necessary. See Exhibit 2.

## DISCUSSION

Physician-prescribed diagnostic services can be covered by MA, if they are consistent with good medical practice. Wis. Admin Code §§DHS 107.06(1) and 107.25. The DHCAA/OIG has made payment of CT, MRI, and PET scans subject to prior authorization, in an effort to determine if they are being ordered consistent with good medical practice. This prior authorization requirement was announced to providers in an *MA Update*, #2010-92, issued to all providers in October, 2010.

The instant PA request was denied because the DHCAA/OIG has determined that the PA request did not document that petitioner had completed a trial of at least six weeks of physician-directed clinical care and clinical re-evaluation prior to the MRI prior authorization request, or recent x-rays, nor documented any signs or symptoms such as significant motor weakness, recent malignancy or infection, cauda equine syndrome, or planned surgery, for which conservative treatment is not necessary. The *MA Update* #2010-92 reminded providers that MedSolutions was the agent for administering PA's for such imaging services on behalf of the Department of Health Services and that MedSolutions would utilize national clinical guidelines in determining the medical necessity of the PA. The guidelines used, as provided with the agency's summary letter for the hearing, show these requirements. See Exhibit 2.

It is the provider's duty to justify the provision of the services requested. As an MA-certified provider, providers who request the MA program to reimburse for their services are required, by law, to completely and accurately complete the prior authorizations which they submit. Not every medical provider can submit a PA to the MA program to request reimbursement. Only those providers who have been certified to provide MA-reimbursable services are allowed to submit a PA. One of the reasons these medical providers are "certified" is to assure they are kept up to date on changes in the MA program and the prior authorization process. MA-certified providers are expected to know the rules and policies controlling the prior authorization process and the completion of the prior authorization forms.

Petitioner appeared at hearing and described his pain, but could not provide much in the way of testimony or documentation to support a different finding - appearing essentially at the mercy of a provider who is far more familiar with navigating the complexities of completing a prior authorization request. Based upon the preponderance of the evidence in this record, I can only conclude that the provider has not justified the services requested. The provider can always submit a new PA with adequate documentation.

I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

## **CONCLUSIONS OF LAW**

The DHCAA/OIG correctly denied petitioner's PA request for an MRI of his lumbar spine and pelvis because the PA request did not document that he met the national clinical guidelines for such imaging.

**THEREFORE, it is**

**ORDERED**

The petition for review herein be and the same is hereby dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

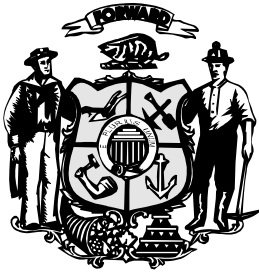
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 15th day of October, 2014

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 15, 2014.

Division of Health Care Access and Accountability